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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,085	04/23/2004	Shoya Tanaka	723-1510	9228
27562	7590	06/14/2007	EXAMINER	
NIXON & VANDERHYE, P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			LEUNG, JENNIFER	
		ART UNIT	PAPER NUMBER	
		3714		
		MAIL DATE	DELIVERY MODE	
		06/14/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/830,085	TANAKA ET AL.
	Examiner Jennifer Leung	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 August 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                                 |                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                            | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|                                                                                                                                                 | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
5/24/2007;12/14/2006;6/7/2005;3/2/2005;4/23/2004.

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 6/17/2003 and 3/29/2004. It is noted, however, that applicant has not filed a certified copy of the 2003-172432 and 2004-96954 applications as required by 35 U.S.C. 119(b) (The examiner notes that the certified copies had been submitted on 7/8/2004. However, both certified copies could not be scanned by the office and a resubmission is required).
2. In addition, the first sentence of the specification does not claim foreign priority. Appropriate correction is required.

### *Information Disclosure Statement*

3. The information disclosure statement filed 5/24/2007 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
4. In addition, two additional documents have been submitted which were not listed in any of the filed Information Disclosure Statements. The two documents are: a 3-page document in Japanese (2004-096954 is stated at the top of page 1), and "European Search Report", EP 04 25 2428.

### ***Drawings***

5. The drawings are objected to because "Broadcasting" is spelled incorrectly in Fig. 17. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

6. Claims 17-18 and 20 are objected to because of the following informalities:  
Claim 17, line 15: Delete "being".  
Claim 18, line 9: "does not perform" should be -- performs neither --.

Claim 18, line 10: "and exchange" should be -- nor an exchange --.

Claim 20, line 9: "exchangeer" should be -- exchanger --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-2, 14-16, 22, 26, and 30-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 1 recites the limitation "said other game apparatus" in line 12. It should be "said another game apparatus". There is insufficient antecedent basis for this limitation in the claim. This also applies to claims 2, 14-15, 22, 26, and 30-33.

10. In addition, using the pronoun "its" makes claim 16 indefinite, especially in claims 22, 26, and 30-31.

11. As a suggestion, it would be helpful if applicant would refer to the different apparatus/devices as a "first game apparatus" or "second game apparatus", instead of using "other/another game apparatus".

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**13. Claims 1-7, 9, 13-14, 16-17, 19-23, 26-27, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling (WO 93/23125) in view of Kim (US 2002/0160838).**

Re claims 1, 22, 30 and 32. Darling discloses a game system constructed of a plurality of game apparatuses that exchanges game data between the respective game apparatuses, with each game apparatus comprising:

- a game data storer for storing game data (20, Fig. 1);
- a communicator for performing short-distance radio communication with a game apparatus (30, Fig. 1; page 7, para. 2);
- an exchange desire transmitter for broadcasting by use of said communicator exchange desired data to other game apparatus(es) without specifying a destination address (page 13);
- an exchange desire receiver for receiving by use of said communicator said exchange desired data from another game apparatus (page 13); and
- a first game apparatus out of said plurality of game apparatuses transmits said exchange desired data by use of said exchange desire transmitter, and a second game apparatus out of said plurality of game apparatuses receives said exchange desired data (page 13).

However, Darling fails to disclose the following which Kim discloses:

-- a providing game data designator for designating providing game data that is allowed to be provided to another game apparatus out of the game data stored in said game data storers (paras. 0069-73);

-- an exchange condition setter for setting exchange condition data indicative of an exchange condition that is a condition of game data desired to be provided from another game apparatus in exchange for a provision of said providing game data to said other game apparatus (paras. 0069-73);

-- a game data exchanger for exchanging the game data with a specific game apparatus by use of said communicator (para. 0073), wherein

-- said game data exchanger of said first game apparatus and said game data exchanger of said second game apparatus determine, by communicating at least one attribute relating to the providing game data and the exchange condition data by use of said communicator, whether or not the providing game data of said first game apparatus satisfies the exchange condition of said second game apparatus, and whether or not the providing game data of said second game apparatus satisfies the exchange condition of said first game apparatus, and exchange, in a case both of the exchange conditions are satisfied, the providing game data of said first game apparatus for the providing game data of said second game apparatus (para. 0069-73).

Therefore, in view of Kim, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations in order to enable the players to exchange designated game items wirelessly through

portable gaming devices.

Re claims 2, 26, 31 and 33. In addition to the above, Darling discloses: a connection establisher for performing by use of said communicator a process to establish a connection by a radio communication with a specific game apparatus (abstract; page 7, para. 1 and 2); and in a first game apparatus and a second game apparatus out of said plurality of game apparatuses, said connection establisher of one game apparatus executes a first connection establishing process by broadcasting connection requiring data for establishing a connected state with other game apparatus which has received said connection requiring data, and said connection establisher of said other game apparatus executes a second connection establishing process by receiving said connection requiring data for establishing the connected state with said one game apparatus which has broadcasted said connection requiring data (page 13).

Re claim 3. Darling discloses:

a game program storер for storing a game program (21, Fig. 1);  
a game program executer for generating game data by executing said game program (11, Fig. 1); and  
a game data storing process for storing said game data generated by said game program executer in said game data storер (22, Fig. 1).

Re claim 4. Kim discloses wherein the exchange condition data includes data for designating a kind of the game data desired to be provided (para. 0069).

Re claim 5. Kim discloses wherein the exchange condition data further includes an attribute value of the game data desired to be provided (para. 0068).

Re claim 6. Darling discloses wherein said exchange desire transmitter continuously broadcasts said exchange desired data (page 13).

Re claim 7. Kim discloses wherein said providing game data designator designates said providing game data according to an instruction from a player (paras. 0069-73).

Re claim 9. Kim discloses wherein said exchange condition setter sets the exchange condition according to an instruction from a player (paras. 0069-73).

Re claim 13. Kim discloses wherein said game data exchanger includes an inquirer for inquiring of a player whether or not to perform an exchange when it is determined that both of the exchange conditions are satisfied (para. 0072-73).

Re claim 14. Darling, in combination with Kim, discloses a game program executer for executing said game program (11, Fig.1 of Darling), wherein when said game program is executed by said game program executer, said game apparatus is connected to

another game apparatus by said connection establisher (page 13 of Darling) and executes the exchange processing of the game data with said other game apparatus that satisfies both of the exchange conditions by said game data exchanger (para. 0072-73 of Kim).

Re claim 16. Kim discloses wherein said exchange desire transmitter broadcasts at least one of the attribute information relating to the providing game data of its own and the exchange condition data (paras. 0068-73).

Re claim 17. Kim discloses wherein said providing game data designator is able to designate a plurality of providing game data (paras. 0069 and 0072), said exchange condition setter sets the exchange condition data in such a manner as to correspond to each of the providing game data (paras. 0069 and 0072), said game data exchanger of said first game apparatus and said game data exchanger of said second game apparatus exchange, when with respect to combinations of providing game data of said first game apparatus and said second game apparatus respectively, it is determined that first providing game data that is one of said providing game data of said first game apparatus satisfies the exchange condition brought into correspondence with second providing game data that is one of said providing game data of said second game apparatus, and it is determined that said second providing game data satisfies the exchange condition brought into correspondence with said first providing game data,

said first providing game data being satisfying the exchange condition for said second providing game data (paras. 0072-73).

Re claim 19. Kim discloses: an identifying information exchanger for exchanging identifying information of game apparatuses with said specific game apparatus (para. 0069); and a presenter for presenting to the player said identifying information of said specific game apparatus that satisfies both of the exchange conditions when said inquirer inquires of the player whether or not to exchange (para. 0072).

Re claim 20. Darling, in combination with Kim, discloses a display (Fig. 1 of Darling); and an electric power control for controlling a power supply to said display, wherein said exchange desire transmitter, said exchange desire receiver, and said game data exchanger execute their processes while the power supply to said display is suspended by said electric power control, said electric power control performs the power supply to said display at a timing relating to a process of said game data exchanger (page 1 of Darling: in order to conserve power, one would design the device to power off certain functions when not in need), and said display displays information relating to the exchange (para. 0069-73 of Kim).

Re claim 21. Kim, in combination with Darling, discloses an attachment for attaching a medium in which a game program, game identifying information that is identifying information of said game program, and said game data are stored (Fig. 1 of Darling); a

reader for reading, when said medium is attached to said attachment, said game program, said game identifying information, and said game data from said medium (Fig. 1 of Darling); and a game identifying information exchanger for exchanging said game identifying information read by said reader with said specific game apparatus, wherein said game data exchanger exchanges said providing game data with said game data exchanger of said specific game apparatus (para. 0072-73 of Kim) when a coincidence of the game identifying information is indicated (page 11 of Darling: same version of game played).

Re claims 23 and 27. Darling discloses a switch for alternately executing a process of said exchange desire transmitter and a process of said exchange desire receiver (page 13).

**14. Claims 8, 10-12, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling/Kim, and further in view of Yoshizawa (US 6,045,447).**

Re claim 8 and 10. Darling/Kim discloses the above except for wherein said providing game data designator/exchange condition setter is validated when a progress of a virtual game executed by said game apparatus satisfies a predetermined condition. Yoshizawa discloses such (col. 9, lines 60-65)

Therefore, in view of Yoshizawa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitation in order to enable a possible trade only if the player finishes a

game/level/stage thereby providing an incentive for the player to play the game towards progression.

Re claims 11 and 12: Darling/Kim discloses the above except for wherein the providing game data and the exchange condition are designated/set automatically. It would have been obvious to one having ordinary skill in the art at the time the invention was made to designate/set the data automatically in order to save the player time in determining what items to exchange, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192. See MPEP 2144.04 (III).

Re claim 15. Darling/Kim discloses the above except for wherein when a progress of a virtual game by said game program executer satisfies a predetermined condition, said game apparatus is connected to another game apparatus by said connection establisher and executes the exchange processing of the game data with said other game apparatus that satisfies both of the exchange conditions by said game data exchanger. Yoshizawa discloses such (col. 9, lines 60-65)

Therefore, in view of Yoshizawa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations in order to trade items once the player finishes a game/level/stage thereby providing an incentive for the player to play the game towards progression.

Re claim 18. Darling/Kim discloses the above except for the following which Yashizawa discloses: a selector for selecting at least one of the game data stored in said game data storers (Fig. 2); a game program storers for storing a game program (Fig. 4); and a game program executer for executing said game program by causing the game data selected by said selector to appear in a virtual game world (Fig. 4), wherein said game data exchanger does not perform a determination whether or not the exchange condition is satisfied and exchange of said providing game data with respect to said game data selected by said selector out of said providing game data designated by said providing game data designator (abstract).

Therefore, in view of Yoshizawa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations in order to prevent other players from acquiring items the player has placed in the game setting.

**15. Claims 24-25 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling/Kim, and further in view of Haartsen (US 6,804,542).**

Re claims 24 and 28. Darling/Kim discloses the above except for said switch alternately repeats a first period for broadcasting said exchange desired data by the process of said exchange desire transmitter and a second period for attempting to receive said exchange desired data by the process of said exchange desire receiver, further

comprising a period's length setter for variably setting a length of at least one of said first period and said second period. Haartsen discloses such (Fig. 1; col. 6, lines 1-16).

Therefore, in view of Haartsen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations in order to avoid having the gaming devices transmit/receive simultaneously thereby allowing the devices to receive each others' transmitted signals.

Re claims 25 and 29. Darling/Kim discloses the above except for a period's starting point setter for variably setting a starting point of at least one of said first period and said second period. Haartsen discloses such (col. 5, lines 45-57).

Therefore, in view of Haartsen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitation in order to avoid having the gaming devices transmit/receive simultaneously thereby allowing the devices to receive each others' transmitted signals.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sides discloses an electronic game apparatus and method of use. Murgia discloses an interactive system for personal life patterns.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Leung whose telephone number is 571-270-1342. The examiner can normally be reached on Mon -Thur, every other Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jennifer Leung  
June 9, 2007

  
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Supervisory Patent Examiner  
Art Unit 3714